

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

GARY PAUL PHILLIPS,

Movant,

v.

Case No. 2:03-cr-22  
HON. GORDON J. QUIST

UNITED STATES OF AMERICA,

Respondent.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from the movant. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objection has been made.

Movant entered into a plea agreement. As part of the agreement, movant waived the right to challenge his sentence and the manner in which it was determined in any collateral attack including but not limited to a motion brought under 28 U.S.C. § 2255. Despite the clear waiver language, movant now suggests that he did not know what a § 2255 motion was at the time he entered into the plea agreement. However, movant indicated that he read the entire plea agreement and discussed it with his attorney. Clearly, movant was aware that he waived any challenge to his sentence as a result of the agreement.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

Dated: December 6, 2005

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/s/ Gordon J. Quist  
GORDON J. QUIST  
UNITED STATES DISTRICT JUDGE